

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

EDUARDO LUCERO,  
Plaintiff,

vs.

No. CIV-14-00393-KG-KK

ALBERT OLIVAS, DAVID PENA, DWANE PENA,  
SILVERIO PENA, MICHAEL GILBERT,  
EDDIE ARAGON, JR., GILBERT MARTINEZ,  
MATTHEW STEPHENSON, JOHN DOE, JANE DOE,  
JOHN P. SWEENEY and YOLANDA BERUMEN-DEINES  
each in their individual capacities, and the NEW MEXICO  
CHILDREN, YOUTH AND FAMILIES DEPARTMENT,  
Defendants.

*Consolidated with:*

ISAAC RAMIREZ,  
Plaintiff,

vs.

No. CIV-14-00394-KG-KK

OLIVAS, *et al.*,  
Defendants.

*Consolidated with:*

JACOB GONZALES,  
Plaintiff,

vs.

No. CIV-14-00395-KG-KK

OLIVAS, *et al.*,  
Defendants.

*Consolidated with:*

DANTE WOODS,  
Plaintiff,

vs.

No. CIV-14-00396-KG-KK

OLIVAS, *et al.*,  
Defendants.

## ORDER

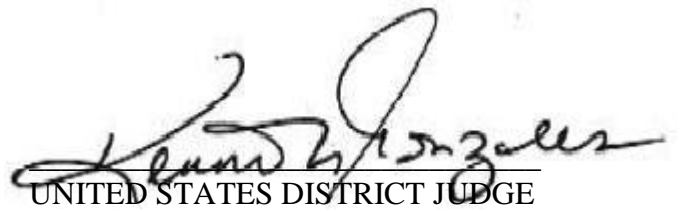
This matter comes before the Court upon Defendant Eddie Aragon Jr.'s Motion for Leave to File Out of Time His Motion for Summary Judgment on All State Tort Claims, filed on May 1, 2017. (Doc. 112). Plaintiffs filed a response on May 15, 2017, and Defendant Eddie Aragon, Jr. (Aragon) filed a reply on June 1, 2017. (Docs. 115 and 119).

Aragon's proposed motion for summary judgment addresses the issue of whether he qualifies as a "law enforcement officer" under the New Mexico Tort Claims Act (NMTCA), an issue critical to deciding whether the NMTCA claims against Aragon survive and should be tried. Plaintiffs oppose allowing Aragon to file the proposed motion for summary judgment on the basis of futility. Having reviewed the proposed motion for summary judgment and the exhibits attached to Aragon's reply, the Court finds that it would not be futile for Aragon to file the proposed motion for summary judgment. Moreover, the interests of justice and judicial economy are served by allowing Aragon to file his proposed motion for summary judgment out of time.

IT IS ORDERED that

1. Defendant Eddie Aragon Jr.'s Motion for Leave to File Out of Time His Motion for Summary Judgment on All State Tort Claims (Doc. 112) is granted;
2. on or before July 7, 2017, Aragon will file his motion for summary judgment;
3. the motion for summary judgment will reflect the stipulated dismissal of Plaintiff Ramirez's claims against Aragon (Doc. 124) and include the exhibits attached to Aragon's reply to the Motion for Leave to File Out of Time His Motion for Summary Judgment on All State Tort Claims;
4. Plaintiffs Gonzales and Woods may file a response no later than July 21, 2017; and

5. Aragon may file a reply no later than August 4, 2107.



Kenneth H. Gonzalez  
UNITED STATES DISTRICT JUDGE